

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

TERRY J. BENDER,	)	CASE NO. 1:07 CV 2599
	)	
Petitioner,	)	JUDGE CHRISTOPHER A. BOYKO
	)	
v.	)	
	)	<u>MEMORANDUM OF OPINION</u>
STATE OF OHIO,	)	<u>AND ORDER</u>
	)	
Respondent.	)	

This habeas corpus action, filed by petitioner pro se Terry J. Bender in the Eastern District of Kentucky on April 11, 2007, was transferred to this court and filed on August 27, 2007. The petition challenges Bender's 1988 conviction, pursuant to a guilty plea, for receiving stolen property. A six month sentence, suspended, with one year probation was imposed. For the reasons stated below, the petition is denied and this action is dismissed.

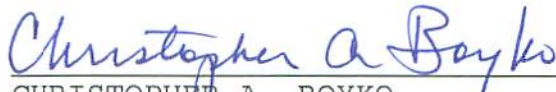
A federal district court may entertain a petition for a writ of habeas corpus by a person in state custody only on the ground that the custody violates the Constitution or laws of the United States. Furthermore, the petitioner must have exhausted all available state remedies. 28 U.S.C. § 2254.

There is no indication on the face of the petition and

attachments that Bender seeks to raise an issue cognizable in habeas corpus, as he does not set forth facts suggesting he might be "in custody" for purposes of seeking habeas relief. On the contrary, the petition explicitly states that petitioner's sentence was completed. Once a sentence has fully expired, collateral consequences are insufficient to render a prisoner in custody for purposes of habeas corpus. Maleng v. Cook, 490 U.S. 488 (1989).

Accordingly, the petition is denied and this action is dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis on which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed.R.App.P. 22(b).

IT IS SO ORDERED.

  
CHRISTOPHER A. BOYKO  
UNITED STATES DISTRICT JUDGE

October 25, 2007